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ON THE
PUNISHMENT
OF
MURDER
BY
DEATH.



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PHILADELPHIA PRINTED:

LONDON REPRINTED:

AND SOLD BY J. JOHNSON, St. PAUL'S CHURCH YARD;
AND
J. PHILLIPS, GEORGE YARD, LOMBARD STREET.

1793.

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THE following TRACT hath been printed several times in Pennsylvania; where its benevolent Author seems on the eve of seeing the removal of some of those prejudices, which have hitherto, in many countries, counteracted the designs of Christianity; and permitted, under mistaken notions of justice, the hand of man to be coolly and deliberately raised against the life of a fellow-man; and the more deserving any may be of severe punishment, the more unfit they are to launch into eternity.

As these considerations belong not exclusively to republicks, but are the concern of every state, and every man who wishes to make Christianity the rule of his conduct, the republication may prove not unuseful here.



ON THE
PUNISHMENT OF MURDER
BY
DEATH.

I. **T**HE Punishment of Murder by Death, is contrary to reason, and to the order and happiness of society.

1. It lessens the horror of taking away human life, and thereby tends to multiply murders.

2. It produces murder by its influence upon people who are tired of life, and who, from a supposition that murder is a less crime than suicide, destroy a life (and often that of a near connection) and afterwards deliver themselves up to the laws of their country,

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that they may escape from their misery by means of a halter.

3. The punishment of murder by death multiplies murders, from the difficulty it creates of convicting persons who are guilty of it. Humanity, revolting at the idea of the severity and certainty of a capital punishment, often steps in, and collects such evidence in favour of a murderer, as screens him from death altogether, or palliates his crime into manslaughter. If the punishment of murder consisted in long confinement, and hard labour, it would be proportioned to the measure of our feelings of justice, and every member of society would be a watchman, or a magistrate, to apprehend a destroyer of human life, and to bring him to punishment.

4. The punishment of murder by death checks the operations of universal justice, by preventing the punishment of every species of murder.

5. The punishment of murder by death has been proved to be contrary to the order and happiness of society, by the experiments of some of the wisest legislators in Europe. The Empress of Russia, the
King

King of Sweden, and the Duke of Tuscany, have nearly extirpated murder from their dominions, by converting its punishment into the means of benefiting society, and reforming the criminals who perpetrate it.

II. THE punishment of murder by death is contrary to divine revelation. A religion which commands us to forgive, and even to do good to, our enemies, can never authorize the punishment of murder by death. "Vengeance is mine," said the Lord; "I will repay." It is to no purpose to say here, that this vengeance is taken out of the hands of an individual, and directed against the criminal by the hand of government. It is equally an usurpation of the prerogative of heaven, whether it be inflicted by a single person, or by a whole community.

Here I expect to meet with an appeal from the letter and spirit of the gospel, to the law of Moses, which declares, that "he that killeth a man shall be put to death." Forgive, indulgent heaven! the ignorance and cruelty of man, which, by the misapplication of this text of scripture, has so long and so often stained the religion of Jesus Christ with folly and revenge.

The following considerations, I hope, will prove that no argument can be deduced from this law, to justify the punishment of murder by death;—on the contrary, that several arguments against it, may be derived from a just and rational explanation of that part of the Levitical institutions.

1. There are many things in scripture above, but nothing contrary to, reason. Now, the punishment of murder by death, is contrary to reason. It cannot, therefore, be agreeable to the will of God.

2. The order and happiness of society cannot fail of being agreeable to the will of God. But the punishment of murder by death, destroys the order and happiness of society. It must therefore be contrary to the will of God.

3. Many of the laws given by Moses, were accommodated to the ignorance, wickedness, and “hardness of heart,” of the Jews. Hence their divine legislator expressly says, “I gave them statutes that were not good, and judgments whereby they should not live.” Of this, the law which respects divorces, and the law of retaliation, which required, “an eye
“for

“ for an eye, and a tooth for a tooth,” are remarkable instances.

But we are told, that the punishment of murder by death, is founded not only on the law of Moses, but upon a positive precept given to Noah and his posterity, that “ whoso sheddeth man’s blood, by man shall his blood be shed.” In order to show that this text does not militate against my proposition, I shall only observe, that soon after the flood, the infancy and weakness of society rendered it impossible to punish murder by confinement. There was therefore no medium between inflicting death upon a murderer, and suffering him to escape with impunity, and thereby to perpetrate more acts of violence against his fellow creatures. It pleased God, in this condition of the world, to permit a less, in order to prevent a greater evil. He therefore commits for a while his exclusive power over human life, to his creatures for the safety and preservation of an infant society, which might otherwise have perished, and with it, the only stock of the human race. The command indirectly implies that the crime of murder was not punished by death in the mature state of society which existed before the flood. Nor is this the only instance upon record in
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the scriptures in which God has delegated his power over human life to his creatures. Abraham expresses no surprise at the command which God gave him to sacrifice his son. He submits to it as a precept founded in reason and natural justice; for nothing could be more obvious than that the giver of life had a right to claim it when and in such manner as he pleased. 'Till men are able to give life, it becomes them to tremble at the thought of taking it away. Will a man rob God?—Yes—he robs him of what is infinitely dear to him—of his darling attribute of mercy; every time he deprives a fellow creature of life.

4. If the Mosaic law, with respect to murder, be obligatory upon Christians, it follows that it is equally obligatory upon them to punish adultery, blasphemy, and other capital crimes that are mentioned in the Levitical law, by death. Nor is this all: it justifies the extirpation of the Indians, and the enslaving of the Africans; for the command to the Jews to destroy the Canaanites, and to make slaves of their heathen neighbours, is as positive as the command which declares, “that he that killeth a man, shall surely be
“ put to death.”

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5. Every part of the Levitical law, is full of types of the Messiah. May not the punishment of death, inflicted by it, be intended to represent the demerit and consequences of sin, as the cities of refuge were the offices of the Messiah?

6. The imperfection and severity of these laws were probably intended farther—to illustrate the perfection and mildness of the gospel dispensation. It is in this manner that God has manifested himself in many of his acts. He created darkness first, to illustrate by comparison the beauty of light, and he permits sin, misery, and death in the moral world, that he may hereafter display more illustriously the transcendent glories of righteousness, happiness, and immortal life. This opinion is favoured by St. Paul, who says, “the law made nothing perfect,” and that “it was a shadow of good things to come.”

How delightful to discover such an exact harmony between the dictates of reason, the order and happiness of society, and the precepts of the gospel! There is a perfect unity in truth. Upon all subjects—in all ages—and in all countries—truths of every kind agree with each other. I shall now take notice
of

of some of the common arguments, which are made use of, to defend the punishment of murder by death.

1. It has been said, that the common sense of all nations, and particularly of savages, is in favour of punishing murder by death.

The common sense of all nations is in favour of the commerce and slavery of their fellow creatures. But this does not take away from their immorality. Could it be proved that the Indians punish murder by death, it would not establish the right of man over the life of a fellow creature; for revenge we know in its utmost extent is the universal and darling passion of all savage nations. The practice moreover, (if it exist) must have originated in *necessity*: for a people who have no settled place of residence, and who are averse from all labour, could restrain murder in no other way. But I am disposed to doubt whether the Indians punish murder by death among their own tribes. In all those cases where a life is taken away by an Indian of a foreign tribe, they always demand the satisfaction of life for life. But this practice is founded on a desire of preserving a balance in their numbers and power; for among nations which consist
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of only a few warriors, the loss of an individual often destroys this balance, and thereby exposes them to war or extermination. It is for the same purpose of keeping up an equality in numbers and power, that they often adopt captive children into their nations and families. What makes this explanation of the practice of punishing murder by death among the Indians more probable, is, that we find the same bloody and vindictive satisfaction is required of a foreign nation, whether the person lost, be killed by an accident, or premeditated violence. Many facts might be mentioned from travellers to prove that the Indians do not punish murder by death within the jurisdiction of their own tribes. I shall mention only one, which is taken from the Rev. Mr. John-Megapolensis's account of the Mohawk Indians, lately published in Mr. Hazard's historical collection of state papers.—“There is no punishment, (says our author) here for murder, but every one is his own avenger. The friends of the deceased revenge themselves upon the murderer until peace is made with the next a-kin. But although they are so cruel, yet there are not half so many murders committed among them as among Christians, notwithstanding their severe laws, and heavy penalties.”

2. It has been said, that the horrors of a guilty conscience proclaim the justice and necessity of death, as a punishment for murder. I draw an argument of another nature from this fact. Are the horrors of conscience the punishment that God inflicts upon murder? Why, then, should we shorten or destroy them by death, especially as we are taught to direct the most atrocious murderers to expect pardon in the future world? No, let us not counteract the government of God in the human breast: let the murderer live—but let it be to suffer the reproaches of a guilty conscience; let him live, to make compensation to society for the injury he has done it, by robbing it of a citizen; let him live to maintain the family of the man whom he has murdered; let him live, that the punishment of his crime may become universal; and, lastly, let him live, that murder may be extirpated from the list of human crimes!

Let us examine the conduct of the moral Ruler of the world towards the first murderer.—See Cain, returning from his field, with his hands reeking with the blood of his brother! Do the heavens gather blackness, and does a flash of lightning blast him to the earth? No. Does his father Adam, the natural legislator

legislator and judge of the world, inflict upon him the punishment of death? No. The infinitely wise God becomes his judge and executioner. He expels him from the society of which he was a member. He fixes in his conscience a never dying worm. He subjects him to the necessity of labour; and to secure a duration of his punishment, proportioned to his crime, he puts a mark of prohibition upon him, to prevent his being put to death, by weak and angry men; declaring, at the same time, that "whosoever slayeth Cain, vengeance shall be taken on him seven-fold."

But further, if a necessary connection existed between the crime of murder and death in the mind and laws of the Deity, how comes it that Moses and David escaped it? They both imbrued their hands in innocent blood, and yet the horrors of a guilty conscience were their only punishment. The subsequent conduct of those two great and good men, proves that the heart may retain a sound part after committing murder, and that even murderers, after repentance, may be the vehicles of great temporal and spiritual blessings to mankind.

3. The declaration of St. Paul before Festus, respecting the punishment of death,* and the speech of the dying thief on the cross,† are said to prove the lawfulness of punishing murder by death; but they prove only that the punishment of death was agreeable to the Roman law. Human life was extremely cheap under the Roman government. Of this we need no further proof than the head of John the Baptist forming a part of a royal entertainment. From the frequency of public executions, among those people, the *sword* was considered as an emblem of public justice. But to suppose, from the appeals which are sometimes made to it as a sign of justice, that capital punishments are approved of in the New Testament, is as absurd as it would be to suppose that horse-racing was a christian exercise, from St. Paul's frequent allusions to the Olympic games.

The declaration of the barbarians upon seeing the snake fasten upon St. Paul's hand, proves nothing but the ignorance of those uncivilized people; — “and

* “For if I be an offender, and have committed any thing worthy of death, I refuse not to die.” — Acts xxv. and 11.

† “We indeed” suffer “justly, for we receive the due reward of our deeds.” — Luke xxiii. and 41.

“when

“ when the barbarians saw the venomous beast hang
“ on his hand, they said among themselves, no doubt
“ this man is a murderer, whom, though he hath
“ escaped the sea, yet vengeance suffereth not to
“ live.”—Acts xvii. and 4th.

Here it will be proper to distinguish between the sense of justice so universal among all nations, and an approbation of death as a punishment for murder. The former is written by the finger of God upon every human heart, but like his own attribute of justice, it has the happiness of individuals and of society for its objects. It is always mislaid, when it seeks for satisfaction in punishments that are injurious to society, or that are disproportioned to crimes. The satisfaction of this universal sense of justice by the punishments of imprisonment and labour, would far exceed that which is derived from the punishment of death; for it would be of longer duration, and it would more frequently occur; for, upon a principle laid down in the first essay upon this subject, scarcely any species of murder would escape with impunity.*

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* A scale of punishments, by means of imprisonment and labour, might easily be contrived, so as to be accommodated to the different degrees

The conduct and discourses of our Saviour should outweigh every argument that has been or can be offered in favour of capital punishment for any crime. When the woman caught in adultery was brought to him, he evaded inflicting the bloody sentence of the Jewish law upon her. Even the *maiming* of the body appears to be offensive in his sight; for when Peter drew his sword, and smote off the ear of the servant of the high priest, he replaced it by miracle, and at the same time declared, that "all they who take the sword, shall perish with the sword." He forgave the crime of murder, on his cross; and after his resurrection, he commanded his disciples to preach the gospel of forgiveness, *first* at Jerusalem, where he well knew his murderers still resided. These striking facts are recorded for our imitation, and seem intended to shew that the Son of God died, not only to reconcile God to man, but to reconcile men to each other. There is one passage more, in the history of

degrees of atrocity in murder. For example—for the first or highest degree of guilt, let the punishment be solitude and darkness, and a total want of employment. For the second, solitude and labour, with the benefit of light. For the third, confinement and labour. The *duration* of these punishments should likewise be governed by the atrocity of the murder, and by the signs of contrition and amendment in the criminal.

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our Saviour's life, which would of itself overfet the justice of the punishment of death for murder, if every other part of the Bible had been silent upon the subject. When two of his disciples, actuated by the spirit of vindictive legislators, requested permission of him to call down fire from Heaven to consume the inhospitable Samaritans, he answered them "The Son of Man is not come to *destroy* men's *lives*, but to *save* them." I wish these words composed the motto of the arms of every nation upon the face of the earth. They inculcate every duty that is calculated to preserve, restore, or prolong human life. They militate alike against war—and capital punishments—the objects of which, are the unprofitable destruction of the lives of men. How precious does a human life appear from these words, in the sight of heaven! Pause, Legislators, when you give your votes for inflicting the punishment of death for any crime. You frustrate in one instance, the design of the mission of the Son of God into the world, and thereby either deny his appearance in the flesh, or reject the truth of his gospel. You, moreover, strengthen by your conduct the arguments of the Deists against the particular doctrines of the Christian revelation. You do more, you preserve
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a bloody fragment of the Jewish institution. —
“ The Son of Man came not to *destroy* men’s lives,
“ but to *save* them.” Excellent words ! I require
no others to satisfy me of the truth and divine original
of the Christian religion ; and while I am able to
place a finger upon this text of scripture, I will not
believe an angel from heaven, should he declare that
the punishment of death, for *any* crime, was incul-
cated, or permitted by the spirit of the gospel.

4. It has been said, that a man who has committed
a murder, has discovered a malignity of heart, that
renders him ever afterwards unfit to live in human
society. This is by no means true in many, and
perhaps in most of the cases of murder. It is most
frequently the effect of a sudden gust of passion, and
has sometimes been the only stain of a well-spent, or
inoffensive life. There are many crimes which unfit
a man much more for human society, than a single
murder ; and there have been instances of murderers,
who have escaped, or bribed the laws of their coun-
try, who have afterwards become peaceable and useful
members of society. Let it not be supposed that I
wish to palliate, by this remark, the enormity of
murder. Far from it. It is only because I view
murder

murder with such superlative horror, that I wish to deprive our laws of the power of perpetrating and encouraging it.

It has been said, that the confessions of murderers have, in many instances, sanctified the justice of their punishment. I do not wish to lessen the influence of such vulgar errors as tend to prevent crimes, but I will venture to declare, that many more murderers escape discovery, than are detected, or punished.— Were I not afraid of trespassing upon the patience of my readers, I might mention a number of facts, in which circumstances of the most trifling nature have become the means of detecting theft and forgery; from which I could draw as strong proofs of the watchfulness of Providence over the property of individuals, and the order of society, as our author has drawn from the detection of murder. I might mention instances, likewise, of persons in whom conscience has produced restitution for stolen goods, or confession of the justice of the punishment which was inflicted for theft. Conscience and knowledge always keep pace with each other, both with respect to divine and human laws.

The acquiescence of murderers in the justice of their execution, is the effect of prejudice and education. It cannot flow from a conscience acting in concert with reason or religion—for they both speak in a very different language.

The world has certainly undergone a material change for the better within the last two hundred years. This change has been produced chiefly, by the secret and unacknowledged influence of Christianity upon the hearts of men. It is agreeable to trace the effects of the Christian religion in the extirpation of slavery—in the diminution of the number of capital punishments, and in the mitigation of the horrors of war. There was a time when masters possessed a power over the lives of their slaves. But Christianity has deposed this power, and mankind begin to see every where that slavery is alike contrary to the interests of society, and the spirit of the gospel. There was a time when torture was part of the punishment of death, and when the number of capital crimes amounted to one hundred and sixty-one.—Christianity has abolished the former, and reduced the latter to not more than six or seven. It has done more. It has confined, in some instances, capital
punishments

punishments to the crime of murder—and in some countries it has abolished it altogether. The influence of Christianity upon the modes of war, has been still more remarkable. It is agreeable to trace its progress,

1st. In rescuing women and children from being the objects of the desolations of war in common with men.

2dly. In preventing the destruction of captives taken in battle, in cold blood.

3dly. In protecting the peaceable husbandman from sharing in the carnage of war.

4thly. In producing an exchange of prisoners, instead of dooming them to perpetual slavery.

5thly. In avoiding the invasion or destruction, in certain cases, of private property.

6thly. In declaring all wars to be unlawful but such as are purely defensive.

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This is the only tenure by which war now holds its place among Christians. It requires but little ingenuity to prove that a defensive war cannot be carried on successfully without offensive operations. Already the princes and nations of the world discover the struggles of opinion or conscience in their preparations for war. Witness the many national disputes which have been lately terminated in Europe by negotiation, or mediation. Witness too, the establishment of the constitution of the United States without force or bloodshed. These events indicate an improving state of human affairs. They lead us to look forward with expectation to the time, when the weapons of war shall be changed into implements of husbandry, and when rapine and violence shall be no more. These events are the promised fruits of the gospel. If they do not come to pass, the prophets have deceived us. But if they do—war must be as contrary to the spirit of the gospel, as fraud, or murder, or any other of the vices which are reprov'd or extirpated by it.

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